

# Constitution of The Law Society of New South Wales



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# *Constitution of The Law Society of New South Wales (ACN 000 000 699), a public company limited by guarantee.*

## Definitions and Interpretation

### 1 Definitions

#### 1.1 The following definitions apply in this Constitution unless the context requires otherwise:

**Associate Member** means a person specified in the Register as an Associate Member.

**City Councillor** means the Councillor declared elected under clause 12.2.7(a)(iii), 12.2.8(h)(i) or 12.2.8(i)(i).

**City Member** means a Solicitor Member practising in New South Wales not included in the definition of Country Member or Suburban Member.

**Constitution** means this constitution.

**Corporate Councillor** means the Councillor declared elected under clause 12.2.7(a)(iii), 12.2.8(h)(v) or 12.2.8(i)(iv).

**Corporate Member** means a Solicitor Member who is recorded by the Society as having their principal place of practice in New South Wales and who primarily engages in legal practice in the capacity of an in-house lawyer for his or her employer or a related entity but who is not included in the definition of Government Member.

**Corporations Act** means the *Corporations Act 2001* (Cth) and any regulation or instrument made under it and where amended, re-enacted or replaced means that amended, re-enacted or replacement legislation or instrument.

**Council** means the Council of the Society appointed under this Constitution.

**Councillor** means a member of the Council.

**Councillor Term** means a period of 3 years commencing from the end of the annual general meeting at which the Councillor's appointment is confirmed.

**Country Councillor** means the Councillor declared elected under clause 12.2.7(a)(iii), 12.2.8(h)(ii) or 12.2.8(i)(iii).

**Country Member** means a Solicitor Member practising in New South Wales whose principal place of practice as recorded by the Society is located in one or other of the geographical areas of a Country Law Society as determined by clause 16.

**Financial Year** means the period from the date of incorporation of the Society to 30 June next following and thereafter each period from 1 July to 30 June next following and in the year in which the Society is dissolved the period from 1 July preceding the date of dissolution of the Society to the date of such dissolution.

**Government Councillor** means the Councillor declared elected under clause 12.2.7(a)(iii), 12.2.8(h)(vi)

or 12.2.8(i)(v).

**Government Member** means a Solicitor Member who is recorded by the Society as having their principal place of practice in New South Wales and primarily engages in legal practice:

- (a) as an officer or employee of a government authority; or
- (b) as the holder of a statutory office of the Commonwealth or of another jurisdiction; or
- (c) in another category specified in the Legal Profession Uniform Rules made under Part 9.2 of the Legal Profession Uniform Law.

**Honorary Member** means a person specified in the Register as an Honorary Member.

**Immediate Past President** means the person for the time being holding that office in accordance with this Constitution.

**Incorporated Legal Practice** means an incorporated legal practice as defined in section 6 of the Legal Profession Uniform Law.

**Incorporated Legal Practice Member** means an Incorporated Legal Practice specified in the Register as an Incorporated Legal Practice Member.

**Junior Vice-President** means the person for the time being holding that office in accordance with this Constitution.

**Large Firm** means a Law Practice which is specified in the Register as:

- (a) a law firm comprising 40 or more Solicitor Members who are principals; or
- (b) an Incorporated Legal Practice comprising 100 or more Solicitor Members; or
- (c) an unincorporated legal practice comprising 100 or more Solicitor Members.

**Large Firm Councillor** means the Councillor declared elected under clause 12.2.7(a)(iii), 12.2.8(h)(iv) or 12.2.8(i)(vi).

**Large Firm Member** means a Solicitor Member who is recorded by the Society as having their principal place of practice in New South Wales with a Large Firm.

**Law Practice** has the same meaning as that attributed to it in the Legal Profession Uniform Law.

**Legal Profession Uniform Law** means the *Legal Profession Uniform Law 2014* (NSW) set out in Schedule 1 to the *Legal Profession Uniform Law Application Act 2014* of Victoria, which applies as a law of New South Wales pursuant to section 4 of the *Legal Profession Uniform Law Application Act 2014* (NSW) and where amended, re-enacted or replaced means that amended, re-enacted or replacement legislation or instrument.

**Life Member** means a Solicitor Member specified in the Register as a Life Member.

**Member** means a member of the Society.

**Membership Financial Year** means the membership financial year of the Society, from 1 July to 30 June.

**Office Bearer** means a person holding the office of President, Senior Vice-President, Junior Vice-President or Immediate Past President.

**Officer** means a current or former officer of the Society within the meaning of the Corporations Act.

**President** means the person for the time being holding that office in accordance with this Constitution.

**Qualifying Event** means an event or set of circumstances that in the reasonable opinion of the Council has had or is likely to have a material adverse effect on the Society. A Qualifying Event might include, without limitation, the resignation of the Chief Executive Officer or a public crisis or emergency.

**Regional Law Society** means a local association of members established in any part of New South Wales and recognised as a Regional Law Society under clause 16.1.

**Register** means the register of Members to be kept under the Corporations Act.

**Registered Office** means the registered office for the time being of the Society.

**Related Bodies Corporate** has the meaning expressed in section 50 of the Corporations Act.

**Reserved Position** means the respective City Councillor, Country Councillor, Suburban Councillor, Large Firm Councillor, Corporate Councillor, Government Councillor and Young Lawyer Councillor position on the Council.

**Scrutineers** means the persons appointed under clause 12.2.1.

**Seal** means the common seal of the Society.

**Secretary** means the person appointed to the office of Secretary under clause 13.8.

**Senior Office Bearer** means Senior Vice-President, President or Immediate Past President.

**Senior Vice-President** means the person for the time being holding that office in accordance with this Constitution.

**Society** means The Law Society of New South Wales.

**Solicitor** means a natural person who is a solicitor as defined in section 6 of the Legal Profession Uniform Law who holds a current practising certificate issued by the Council.

**Solicitor Member** means a Solicitor specified in the Register as a Solicitor Member.

**Student Member** means a person specified in the Register as a Student Member.

**Suburban Councillor** means the Councillor declared elected under clause 12.2.7(a)(iii), 12.2.8(h)(iii) or 12.2.8(i)(ii).

**Suburban Member** means a Solicitor Member whose principal place of practice as recorded by the Society is located in one or other of the geographical areas of a suburban law society as determined by clause 16.

**Young Lawyer Councillor** means a Councillor appointed in accordance with clause 12.1.2.

**Young Lawyer Councillor Term** means a period of 1 year commencing from the end of the annual general meeting at which the relevant Young Lawyer Councillor's appointment is confirmed.

## 1.2 Interpretation

- (a) Headings and notes are for convenience only and do not affect interpretation.
- (b) The following rules apply unless the context requires otherwise.

- (i) The singular includes the plural and the converse applies.
- (ii) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (iii) A reference to a *person* includes a corporation, trust, partnership, unincorporated body or other entity, whether or not it comprises a separate legal entity.
- (iv) A notice includes any consent, publication or other written communication.
- (v) A reference to legislation or a provision of legislation includes a modification, replacement or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
- (vi) A word or phrase given a meaning in the Corporations Act as in force on the day on which this Constitution became binding on the Society has the same meaning in this Constitution.

## 2 Replaceable Rules

The replaceable rules contained in the Corporations Act do not apply to the Society, except for s198B of the Corporations Act.

## 3 Effect of Constitution and Transition

### 3.1 Effect of Constitution

- (a) This Constitution supersedes the Memorandum and Articles of Association of the Society in force immediately before the adoption of this Constitution.
- (b) Everything done under any previous Memorandum and Articles of Association of the Society continues to have the same operation and effect after the adoption of this Constitution as if properly done under this Constitution. In particular (without limitation) every Immediate Past President, President, Senior Vice-President, Junior Vice-President, Treasurer and Councillor in office immediately before the adoption of this Constitution is taken to have been elected or appointed and continues in office under this Constitution.

### 3.2 Transition (in respect of 2022 amendments)

- (a) The Councillors and Office Bearers who are holding office when this amended Constitution is adopted (**Adoption Date**) will continue to hold office after the Adoption Date for the remainder of the terms for which they have been appointed, subject to early retirement or removal in accordance with this Constitution. As at the Adoption Date, the Council will consist of 21 Councillors appointed prior to or on the Adoption Date.
- (b) Clause 12.1.1 will not apply until each of the positions described in clause 3.2(c) has been permanently removed in accordance with clause 3.2(c).
- (c) To give effect to clause 12.1.1, the first time after the Adoption Date that:
  - (i) a City Councillor Reserved Position becomes vacant, that Reserved Position will be permanently removed so as to reduce the number of City Councillor Reserved Positions to one;

- (ii) a Suburban Councillor Reserved Position becomes vacant, that Reserved Position will be permanently removed so as to reduce the number of City Councillor Reserved Positions to one;
  - (iii) a Country Councillor Reserved Position becomes vacant, the Reserved Position will be permanently removed so as to reduce the number of Country Councillor Reserved Positions to one;
  - (iv) a Corporate Councillor Reserved Position becomes vacant, that Reserved Position will be permanently removed so as to reduce the number of Corporate Councillor Reserved Positions to one;
  - (v) a Government Councillor Reserved Position becomes vacant, that Reserved Position will be permanently removed so as to reduce the number of Government Councillor Reserved Positions to one; and
  - (vi) a Large Firm Councillor Reserved Position becomes vacant, that Reserved Position will be permanently removed so as to reduce the number of Large Firm Councillor Reserved Positions to one.
- (d) If two Reserved Positions in a set of Reserved Positions become vacant at the same time, only one of those Reserved Positions will be permanently removed so as to achieve the Council constituency set out in clause 12.1.1.

## 4 Objects of the Society

The objects of the Society are to do the following.

- (a) Consider, originate and promote reform and improvements in the law; to consider proposed alterations, and oppose or support the same; to remedy defects in the administration of justice; to effect improvements in administration or practice. And for the said purposes to petition Parliament or take such other proceedings as may be deemed expedient.
- (b) Represent generally the views of the profession; to preserve and maintain its integrity and status; to suppress dishonourable conduct or practices; to provide for the amicable settlement or adjustment of professional disputes, and to consider and deal with all matters affecting the professional interests of Members.
- (c) Encourage and promote the study of law, and to provide means for securing efficiency and responsibility on the part of those seeking admission to the profession.
- (d) Form and maintain a law library and reading rooms.
- (e) Acquire any rights or privileges which the Society may regard as necessary or convenient for the purposes thereof, or for promoting the interests of the profession.
- (f) Form and maintain club rooms, or a club for the use and benefit of Members.
- (g) Purchase, take on lease, or in exchange, hire or otherwise acquire any real or personal property, and to erect any buildings required for the purposes of the Society.
- (h) Invest the moneys of the Society, not immediately required, upon such securities as may from time to time be determined.

- (i) Raise money in such manner as the Society shall think fit, and in particular by the issue of debentures charged upon all or any of the property of the Society both present and future.
- (j) Sell, improve, lease, mortgage, dispose of, or otherwise deal with all or any part of the property of the Society.
- (k) Do all such other things as are incidental or conducive to the attainment of the above objects.

## 5 Application of Income and Property to Objects

The income and property of the Society however derived shall be applied solely towards the promotion of the objects of the Society set out in clause 4, and no portion of that income or property shall be paid or transferred directly or indirectly by way of dividend, bonus, or otherwise by way of profit, to the persons who at any time are, or have been members of the Society, or to any of them, or to any person claiming through any of them. Provided that nothing in this clause 5 shall prevent the payment in good faith of remuneration to any officers or employees of the Society, or to any Member, or other person, in return for any services actually rendered to the Society.

## 6 Qualification and Admission to Membership

### 6.1 Classes of membership

The Society shall consist of:

- (a) Solicitor Members;
- (b) Associate Members;
- (c) Student Members;
- (d) Life Members;
- (e) Honorary Members;
- (f) Incorporated Legal Practice Members; and
- (g) such other classes of membership as the Council determines from time to time.

### 6.2 Membership qualifications

6.2.1 All Solicitors are qualified to be Solicitor Members and any Solicitor Member is qualified to be a Life Member.

6.2.2 A person is qualified to be an Associate Member if the person:

- (a) is admitted to practise law in a State or Territory of Australia but does not hold a current practising certificate issued by the Society; or
- (b) is a person, or a person of a class, for the time being approved by the Council by order in writing.

6.2.3 A person is qualified to be a Student Member if the person:

- (a) is not otherwise qualified to be an Associate Member; and
- (b) is studying law or has successfully completed a course in law at any university, college or institution in Australia recognised for admission as a lawyer in Australia and who signifies intention to



practise as a legal practitioner; or

(c) is a person, or a person of a class, for the time being approved by the Council by order in writing.

6.2.4 Any person is qualified to be an Honorary Member.

6.2.5 An Incorporated Legal Practice is qualified to be an Incorporated Legal Practice Member if all of its principals and Australian legal practitioners who are recorded by the Society as having their principal place of practice in New South Wales are Solicitor Members.

### 6.3 Admission to membership

6.3.1 Any Solicitor who has applied for membership in the form prescribed by the Council (and has paid the applicable annual membership fee, if required) shall be entered in the Register as a Solicitor Member.

6.3.2 The name of any qualified person who has applied to be an Associate Member in the form prescribed by the Council (and has paid the applicable annual membership fee, if required) shall be entered in the Register as an Associate Member.

6.3.3 The name of any qualified person who has applied to be a Student Member in the form prescribed by the Council (and has paid the applicable annual membership fee, if required) shall be entered in the Register as a Student Member.

6.3.4 The name of any person whom the Council resolves shall be admitted as an Honorary Member shall be entered in the Register as an Honorary Member.

6.3.5 The name of any Solicitor Member whom the Council resolves shall be admitted as a Life Member shall be entered in the Register as a Life Member.

6.3.6 The name of any qualified Incorporated Legal Practice which has applied to be an Incorporated Legal Practice Member in the form prescribed by the Council (and has paid the applicable annual membership fee, if required) shall be entered in the Register as an Incorporated Legal Practice Member.

6.3.7 The name of any qualified person who has applied to be a Member of a class of members determined under clause 6.1(g) (and has paid the applicable annual membership fee, if required) shall be entered in the Register as a Member of that class, and shall have such rights as a Member of that class as the Council may determine from time to time.

## 7 Rights and Duties of Membership

### 7.1 Membership not transferable

Membership of the Society is personal and is not transferable.

### 7.2 Solicitor Members' rights

7.2.1 Without limiting any other rights conferred on Solicitor Members, a Solicitor Member (including a Solicitor Member who is a Life Member) may:

- (a) vote at any election of Councillors in accordance with this Constitution;
- (b) be given notice of, attend and vote at any general meeting of the Society;
- (c) appoint and be appointed as a proxy in accordance with clause 11.7;

- (d) be given all notices issued to Members generally; and
- (e) receive all services and regular publications of the Society on the terms determined by the Council.

### **7.3 Associate Members' rights**

- 7.3.1 An Associate Member shall receive the regular publications of the Society.
- 7.3.2 An Associate Member has no right to attend or vote at a general meeting of the Society and has no right to receive notices of any such meeting or other communications issued to Members other than the regular publications of the Society.
- 7.3.3 An Associate Member must not hold any office in the Society.

### **7.4 Student Members' rights**

- 7.4.1 A Student Member shall receive the regular publications of the Society.
- 7.4.2 A Student Member has no right to attend or vote at a general meeting of the Society and has no right to receive notices of any such meeting or other communications issued to Members other than those publications of the Society as determined by the Council.
- 7.4.3 A Student Member must not hold any office in the Society.

### **7.5 Honorary Members' rights**

- 7.5.1 An Honorary Member has no right to attend or vote at a general meeting of the Society and has no right to receive notices of any such meeting or other communications issued to Members other than the regular publications of the Society.
- 7.5.2 An Honorary Member must not hold any office in the Society.
- 7.5.3 Subject to clauses 7.5.1 and 7.5.2 above, the Council may determine the duration of membership and any privileges of an Honorary Member.

### **7.6 Incorporated Legal Practice Members' rights**

- 7.6.1 Notwithstanding any provision of this Constitution to the contrary, an Incorporated Legal Practice Member has:
  - (a) the right to receive notice of and attend, but not vote at, any general meeting of the Society; and
  - (b) any other rights the Council determines from time to time.

## 7.7 Right to use library and facilities

Subject to this Constitution and any directions by the Council:

- (a) all Members shall be entitled to use the library and general facilities of the Society;
- (b) all Members may introduce to the library and general facilities any visiting legal practitioner from another State or country;
- (c) no person other than a Member, Solicitor or a visiting legal practitioner shall have access to the library of the Society except upon the authority of a current Officer; and
- (d) no person other than a Member or a visiting legal practitioner shall have access to the general facilities of the Society except upon the authority of a current Officer.

## 7.8 Duties of Members

If a Member or a person damages or loses any property of the Society, the Member or the Member responsible for introducing the person causing the damage or loss, shall make good the damage or loss to the satisfaction of the Council.

# 8 Cessation of Membership

## 8.1 Automatic termination of membership

8.1.1 Subject to this Constitution, the membership of any Member terminates if:

- (a) the Member delivers to the Society a written notice resigning the Member's membership of the Society; or
- (b) the Member dies; or
- (c) the Member's membership lapses under clause 9.1.2.

8.1.2 Subject to this Constitution, the membership of a Solicitor Member terminates if the Member ceases to be a Solicitor.

8.1.3 If the membership of a Solicitor Member terminates because the Member's practising certificate is suspended, the Member may be readmitted to membership by resolution of the Council with or without the payment of a further membership fee if the suspension is lifted.

8.1.4 Subject to this Constitution, the membership of an Incorporated Legal Practice Member terminates if:

- (a) it ceases to be an Incorporated Legal Practice;
- (b) it has been wound up pursuant to section 491 of the Corporations Act; or
- (c) it has been deregistered.

8.1.5 The Council may, if it thinks fit, determine that a Member does not cease to be a Member on the grounds set out in clauses 8.1.1(c) or 8.1.4(a) or may readmit a Member and restore the name of that person or Incorporated Legal Practice to the Register on terms it thinks fit.

- 8.1.6 If a Member has applied for a renewal of membership under clause 6.3 in respect of the next Membership Financial Year (and has paid the applicable membership fee, if required), the Member continues to be a Member during such period until the application is determined.

## **8.2 Termination of membership by resolution of Council**

- 8.2.1 Subject to this Constitution, the Council or Members in general meeting may at any time terminate the membership of a Member if the Member:
- (a) ceases to qualify for admission to membership of the Society;
  - (b) refuses or neglects to comply with the provisions of this Constitution or any applicable rules made by the Council;
  - (c) engages in conduct which in the opinion of the Council is unbecoming of the Member or prejudicial to the interests of the Society; or
  - (d) fails to pay any debt due to the Society for a period of 3 months after the due date for payment.
- 8.2.2 A decision of the Council or Members in general meeting under clause 8.2.1(a), (b) or (c) is not effective unless:
- (a) the Member concerned is given a notice of the resolution to be considered by the Council and a copy of any business papers circulated to Councillors regarding the resolution not less than 14 days prior to the date of the meeting. If the business papers do not contain particulars of any allegations supporting the resolution that is to be considered, a statement setting out those allegations must be given;
  - (b) the Member has been invited and permitted to attend that part of the meeting of the Council at which the resolution is considered and permitted to make submissions to the meeting in writing and orally;
  - (c) the Member is given an opportunity to respond to any matters raised in the meeting. The Council may ask the Member to leave the meeting during its deliberations once submissions from all interested parties are complete; and
  - (d) notice of the decision of the Council is given promptly to the Member.

## **8.3 Name to be removed from Register of Members**

The name of any person or Incorporated Legal Practice ceasing to be a Member shall be removed from the Register.

## **8.4 Continuing obligations**

- 8.4.1 Termination of membership for any reason does not affect the liabilities and obligations of a Member (whether they arise under this Constitution or otherwise) existing at the date of termination or which arise or crystallise after that date out of or by reason of facts or circumstances occurring or in existence at or before that date.
- 8.4.2 Without limiting the previous clause, termination of membership does not relieve a Member from any obligation to pay any membership fees payable on or before the date of termination.

## 9 Membership Fees

### 9.1 Annual membership fees

- 9.1.1 Solicitor Members (except those who are Life Members) and Associate Members must pay an annual membership fee, unless otherwise determined by the Council from time to time.
- 9.1.2 Annual membership fees are payable in full annually in advance in respect of each Membership Financial Year on the first day of the Membership Financial Year or, for a person who applies for membership after the commencement of the Membership Financial Year, on application for membership in the Society. Payment may be made within 1 month of the due date (or such other date as the Council may determine from time to time, including on a special or individual basis) without prejudice to any rights of the Member. If a Member does not pay the applicable annual membership fee, if required, by such date, the Member's membership will lapse.
- 9.1.3 Subject to clause 9.1.4, the Council may from time to time determine the annual membership fees payable by each Member. The Council may determine different fees for each class of membership and different fees within a particular class based on such factors as differing services or benefits or such other factors as are determined by the Council to justify differential fees.
- 9.1.4 Honorary Members and Life Members shall not pay any membership fees.
- 9.1.5 Incorporated Legal Practice Members and Student Members shall not pay any membership fees unless otherwise determined by the Council from time to time.

### 9.2 No refund of membership fees

Termination of membership does not entitle a person to any refund of all or part of any membership fee.

## 10 Calling General Meetings

### 10.1 Annual general meetings

- 10.1.1 An annual general meeting of the Members must be held each calendar year and within 5 months of the Society's Financial Year end.
- 10.1.2 Subject to clause 10.1.1 and the Corporations Act, the Council shall determine the time and the place of the annual general meeting.

### 10.2 Use of technology at general meetings

- 10.2.1 The Society may hold a general meeting:
- (a) at two or more venues using any technology that gives Members entitled to attend as a whole a reasonable opportunity to participate in the meeting; or
  - (b) virtually, to the extent permitted by law, using one or more technologies that give Members entitled to attend as a whole a reasonable opportunity to participate in the meeting without being physically present in the same place,
- but is not obligated to offer or provide any additional venue or any technology.

- 10.2.2 If the Society holds a general meeting pursuant to clause 10.2.1, all Members participating in the meeting are taken for all purposes of this Constitution (including the quorum requirement under clause 11.1) to be present at the meeting while so participating.
- 10.2.3 A general meeting held pursuant to clause 10.2.1 will be duly constituted if the Chair of the meeting is satisfied that adequate facilities are available throughout the meeting to seek to ensure that Members entitled to attend as a whole have a reasonable opportunity to participate in the business for which the meeting has been convened and that the quorum requirements under clause 11.1 are met.
- 10.2.4 Unless the Chair of the meeting determines otherwise, a general meeting held pursuant to clause 10.2.1(b) will be deemed to take place at the place where the Chair is physically present at the time of the meeting.
- 10.2.5 The powers of the Chair in relation to a general meeting will apply equally with respect to each venue and each technology used under clause 10.2.1 in connection with that meeting.
- 10.2.6 If a general meeting is held wholly or partly by means of one or more technologies, the Council may (subject to the requirements of the Corporations Act) make any arrangement and impose any requirement or restriction in connection with participation by such technologies that is:
- (a) necessary to verify the identity of the Member, proxy, attorney or representative;
  - (b) necessary to ensure the security of the technology used; and
  - (c) proportionate to the achievement of those objectives.
- 10.2.7 If, before or during a meeting, there is a technical difficulty with any technology used pursuant to clause 10.2.1 in connection with holding the meeting which results in a person entitled to participate not being able to participate in the meeting, the Chair may:
- (a) allow the meeting to continue; or
  - (b) adjourn the meeting until the difficulty is remedied or to such other time and location as the Chair deems appropriate.
- 10.2.8 The inability of one or more Members present in a separate room to participate in the conduct of the meeting, or to access, or to continue to access, one or more technologies for participation in a general meeting, does not invalidate the proceedings at, or any resolution passed at, the meeting, provided that sufficient Members are able to participate in the meeting as are required to constitute a quorum under clause 11.1.

### 10.3 Convening a general meeting

- 10.3.1 A general meeting shall be held within 2 months after the Secretary receives a written requisition from:
- (a) the Council; or
  - (b) 250 Solicitor Members.
- 10.3.2 A written requisition for a general meeting must state the resolutions to be put to the meeting.
- 10.3.3 If the Council has not decided upon a time and place for a general meeting in accordance with clause 10.3.1 within 14 days of receipt by the Society of a requisition in accordance with clauses 10.3.1 and 10.3.2, the Solicitor Members issuing the requisition may determine the time and place of the meeting and the Secretary shall give notice of the meeting accordingly.

## 10.4 Notice requirements

- 10.4.1 Subject to the Corporations Act, not less than 21 days' notice of a general meeting must be given to all Solicitor Members and Incorporated Legal Practice Members.
- 10.4.2 A notice of a general meeting must specify:
- (a) the place, the day and the time of the meeting;
  - (b) all business to be transacted at the meeting;
  - (c) the order of business; and
  - (d) the general nature of all business to be transacted at the meeting other than consideration of the accounts, the reports of the Office Bearers and the auditors and the election of Councillors.
- 10.4.3 In the case of general meeting to be held pursuant to clause 10.2.1, a notice of a general meeting must include information about how Members entitled to attend can participate in the meeting and appoint proxies for the meeting, to the extent they are entitled to do so.
- 10.4.4 A person's attendance at a general meeting waives any objection which that person may have to:
- (a) a failure to give notice, or the giving of defective notice, of the meeting, unless the person at the beginning of the meeting objects to the holding of the meeting; and
  - (b) the consideration of a particular matter at the meeting which is not within the business referred to in the notice of the general meeting, unless the person objects to considering the matter when it is presented.
- 10.4.5 If the general meeting has been requisitioned to consider a contentious matter, the Council must prepare, in consultation with the requisitioners, an explanatory memorandum setting out the case for and against any resolutions sought from the meeting.

## 11 Procedure at a General Meeting

### 11.1 Quorum at a general meeting

- 11.1.1 Business must not be transacted at a general meeting unless a quorum of Solicitor Members is present at the time when the meeting proceeds to business and while business is being conducted.
- 11.1.2 Except as otherwise set out in this Constitution, 25 Solicitor Members present in person and entitled to vote at a general meeting is a quorum.
- 11.1.3 If a quorum is not present within 15 minutes of the time appointed for a general meeting, or a longer period allowed by the Chair, the meeting shall stand adjourned to the same day in the next week at the same time and place or to another day and at another time and place determined by the Chair.
- 11.1.4 At an adjourned meeting, if a quorum is not present within 15 minutes of the time appointed for the meeting, the Solicitor Members present shall be a quorum provided there are 20 or more Solicitor Members present.

## 11.2 Chair

A general meeting shall be chaired by:

- (a) the President;
- (b) if the President is not present within 15 minutes after the scheduled commencement of the meeting, or is unable or unwilling to act, the Senior Vice-President;
- (c) if the President and Senior Vice-President are absent or unable or unwilling to act, the Junior Vice-President; or
- (d) if the President, Senior Vice-President and Junior Vice-President are absent or unable or unwilling to act, a Solicitor Member elected by the Solicitor Members present.

## 11.3 Conduct of General Meetings

- 11.3.1 The general conduct of each general meeting of the Society and the procedures to be adopted at the meeting are as determined at, during or prior to the meeting by the Chair of the meeting.
- 11.3.2 The Chair of a general meeting of the Society may make rulings without putting the question (or any question) to a vote if the Chair considers action is required to ensure the orderly conduct of the meeting.
- 11.3.3 If at any time the Chair of a general meeting of the Society considers it necessary or desirable for the proper and orderly conduct of the meeting, the Chair may demand the cessation of debate or discussion on any business, question, motion or resolution being considered by the meeting and require the business, question, motion or resolution to be put to a vote of the Solicitor Members (including Life Members) present.
- 11.3.4 Any determination by the Chair of a general meeting in relation to matters of procedure (including any procedural motions moved at, or put to, the meeting) or any other matter arising directly or indirectly from the business is final (including any procedural motions moved at, or put to, the meeting). Any challenge to a right to vote (whether on a show of hands or on a poll) or to a determination to allow or disregard a vote may only be made at the meeting and may be determined by the Chair of the meeting whose decision is final.
- 11.3.5 If a person purports to cast a vote at a general meeting in contravention of the Corporations Act, the Chair of the meeting may determine that the vote be disregarded and treated as not having been cast.
- 11.3.6 Nothing contained in this clause limits the powers conferred on a Chair of a general meeting by law.

## 11.4 Adjournment of meetings

- 11.4.1 The Chair may, with the consent of any meeting at which a quorum is present, and must if directed by the meeting, adjourn the meeting or any business, motion, question or resolution being considered or remaining to be considered by the meeting or any debate or discussion to another time and/or to another place determined by the Chair.
- 11.4.2 The only business that may be transacted at any adjourned meeting is the business left unfinished at the meeting from which the adjournment took place.
- 11.4.3 When a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of an original meeting. Otherwise, notice need not be given of the time and place of an adjourned meeting.



## 11.5 Voting

- 11.5.1 Subject to the requirements of the Corporations Act and clause 11.5.2, at a general meeting a resolution put to the vote of the meeting is decided on a show of hands unless a ballot is (before or on the declaration of the result of the show of hands) demanded.
- 11.5.2 Where a general meeting is held pursuant to clause 10.2.1 using one or more technologies, a vote taken at the meeting must be taken on a ballot and not on a show of hands, to give each Member entitled to vote on a resolution the opportunity to participate in the vote on that resolution.
- 11.5.3 Subject to this Constitution, every Solicitor Member present in person has 1 vote on a show of hands and every Solicitor Member present in person or by proxy has 1 vote on a ballot.
- 11.5.4 If there is an equality of votes, whether on a show of hands or on a ballot, the Chair has a casting vote in addition to the Chair's deliberative vote as a Member.
- 11.5.5 An objection to the qualification of a voter may be raised only at the meeting or adjourned meeting at which the vote is given or tendered and must be referred to the Chair whose decision is final.
- 11.5.6 If a ballot is not duly demanded, a declaration by the Chair that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the general meetings of Members, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

## 11.6 Conduct of a ballot

- 11.6.1 A ballot may not be taken on the election of a Chair or on a question of adjournment.
- 11.6.2 A ballot may be demanded by:
- (a) the Chair; or
  - (b) any 5 Members present in person or by proxy entitled to vote.
- 11.6.3 The demand for a ballot may be withdrawn.
- 11.6.4 The demand for a ballot does not prevent the continuance of a meeting for the transaction of business other than the question on which the ballot is demanded.
- 11.6.5 If a ballot is duly demanded, it must be taken in the manner and at such time as the Chair directs.
- 11.6.6 The result of the ballot is the resolution of the meeting on the question concerned.

## 11.7 Proxies

- 11.7.1 A Member who is entitled to attend and vote at a meeting may appoint a person as a proxy to attend and vote for the Member in accordance with the Corporations Act but not otherwise. A proxy appointed in accordance with the Corporations Act to attend and vote may exercise the rights of the Member on the basis and subject to the restrictions provided in the Corporations Act but not otherwise.
- 11.7.2 An appointment of a proxy is valid if it is in accordance with the Corporations Act or in any form (including electronic) that the Council may prescribe or accept.
- 11.7.3 A Member may appoint 1 proxy. Only a Solicitor Member (including a Life Member) may be appointed as a proxy.

- 11.7.4 A document appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution and, where the document so provides, the proxy is not entitled to vote on the resolution except as specified in the document.
- 11.7.5 The document appointing a proxy and any power of attorney or other authority (if any) under which the proxy is signed (or a copy of that power or authority certified to be a true copy by a legal practitioner or justice of the peace) must be given (and may be given by electronic mail) to the Secretary at the Registered Office, or at another place specified for that purpose in the notice convening the meeting, not less than 48 hours before the time for holding the meeting or adjourned meeting.
- 11.7.6 A vote given in accordance with the terms of a document appointing a proxy is valid despite the occurrence of any 1 or more of the following events if no notice in writing of any of those events has been received by the Secretary at the Registered Office before the commencement of the meeting or adjourned meeting at which the document is used:
- (a) the previous death or unsoundness of mind of the principal; or
  - (b) the revocation of the instrument or of the authority under which the instrument was executed; or
  - (c) the termination of membership of the Member.
- 11.7.7 A proxy appointment or power of attorney (subject to its terms) is not revoked by the principal attending and taking part in the relevant meeting unless the principal actually votes at the meeting on a resolution for which the proxy appointment or power of attorney is proposed to be used.
- 11.7.8 If a proxy appointment is not properly executed or validated, incomplete or unclear, the following provisions apply. Nothing obliges the Society or the Secretary to do anything referred to in those provisions.
- (a) If the name of the proxy is not included, the appointment of proxy is taken to be given in favour of the Chair of the meeting.
  - (b) If the appointment has not been duly signed or validated, the Secretary may:
    - (i) return the appointment to the appointing Member; or
    - (ii) request that the Member sign or validate the appointment and return it to the Secretary within a period decided by the Council which may be later than the time specified in the relevant notice of meeting for the receipt of proxy appointments.
  - (c) If the appointment is otherwise incomplete or unclear, the Secretary may, by written or oral communication, clarify with a Member any instruction on the appointment and complete or amend the contents of any appointment to reflect any clarification in instruction received from the Member (which completion or amendment may occur later than the time specified in the relevant notice of meeting for the receipt of proxy appointments). For this purpose, the Member appoints the Secretary as its attorney.
  - (d) Where a notice of meeting provides for electronic lodgement of proxy appointments, an appointment lodged at the electronic address or by the electronic means specified in the notice is taken to have been received at the Registered Office and validated by the Member if there is compliance with the requirements set out in the notice.

## 12 Council

### 12.1 Composition of the Council

12.1.1 Subject to this Constitution, the Council shall consist of 15 Councillors elected or appointed in the Reserved Positions and unreserved positions specified below:

- (a) 1 City Councillor;
- (b) 1 Suburban Councillor;
- (c) 1 Country Councillor;
- (d) 1 Corporate Councillor;
- (e) 1 Government Councillor;
- (f) 1 Large Firm Councillor;
- (g) 1 Young Lawyer Councillor;
- (h) 8 other Councillors who will hold unreserved positions.

In accordance with clause 12.3.2, the Council shall also include any Senior Office Bearer whose elected term of office has expired. In order to give effect to clause 12.3.2, the number of Councillors may exceed 15.

12.1.2 At the annual general meeting each year the person holding office as President of NSW Young Lawyers on that date will be appointed as the Young Lawyer Councillor for the Young Lawyer Councillor Term. If that person should be ineligible or unable to take up appointment, the Young Lawyer Councillor appointed for the Young Lawyer Councillor Term will be a Solicitor Member who is a member of the Executive Council of NSW Young Lawyers elected by the Executive Council of the NSW Young Lawyers.

12.1.3 At the annual general meeting to be held in 2022 and thereafter at intervals of every 3 years the Council shall review the composition of the Council and report to the annual general meeting in that year on whether or not the Reserved Positions adequately reflect the composition of the Solicitor Membership of the Society at that time together with any recommendation the Council believes appropriate to amend clause 12 to reflect the composition of the membership.

### 12.2 Procedure for election of Councillors

12.2.1 At a Council meeting before September in each year the Council shall appoint 2 election scrutineers who shall not be Councillors and may not be candidates in the forthcoming election.

12.2.2 The Scrutineers shall supervise the conduct of the election and the counting of the ballot by the Secretary.

12.2.3 On or before the last Friday in August each year the Society shall send to each Solicitor Member (other than those Solicitor Members who have requested otherwise) a notice:

- (a) specifying:
  - (i) the date of the forthcoming election of Councillors;
  - (ii) the names of the Councillors to retire at the annual general meeting;
  - (iii) which of the retiring Councillors are eligible for re-election; and

- (iv) whether the retiring Councillors are City, Country, Suburban, Corporate, Government or Large Firm Councillors; and
  - (b) calling for nominations of Solicitor Members as candidates for the forthcoming election of Councillors to be received by the Secretary or left at the Registered Office not later than 4 pm in the afternoon of the third Monday in September.
- 12.2.4 A nomination of a candidate for election must be in writing in any form (including electronic) that the Council may prescribe or accept and be signed (including by electronic signature) by not less than 7 other Solicitor Members and the candidate (with their names and addresses included).
- In this clause 12.2.4, electronic signature means a visible representation of a person's name or mark, placed by a person on a document or in a communication, by electronic or electronic and mechanical means, to identify the person and indicate that they put their mind to adopting the document or communication.
- 12.2.5 A Corporate Member, Government Member or Large Firm Member must stand for election as a Corporate Councillor, Government Councillor or Large Firm Councillor respectively and may not be elected as a City Councillor, Country Councillor or Suburban Councillor unless elected in accordance with clause 12.2.8(h)(vii).
- 12.2.6 At the expiration of the time for receiving nominations the Secretary shall prepare a list containing the names of all persons nominated and all persons eligible for election and the Reserved Position for which each person nominated is eligible to stand and, in determining eligibility, the circumstances of each person shall be assessed as at the expiry of the time for receiving nominations.
- 12.2.7 If the number of nominations received before the close of nominations is equal to or less than the number of vacancies to be filled at the election:
- (a) the Secretary shall:
    - (i) determine by lot which candidates are to be elected for Councillor Terms and which candidate is to fill each casual vacancy;
    - (ii) determine by lot among eligible candidates, if any, which candidate is to be elected as the City Councillor, which candidate is to be elected as the Suburban Councillor, which candidate is to be elected as the Country Councillor, which candidate is to be elected as the Corporate Councillor, which candidate is to be elected as the Government Councillor and which candidate is to be elected as the Large Firm Councillor; and
    - (iii) declare each of the candidates elected at the next annual general meeting.
- 12.2.8 If the number of nominations received before the close of nominations is more than the number of vacancies to be filled at the election an election of Councillors shall be conducted in the following manner:
- (a) During the last week of September the Society shall send to each Solicitor Member entitled to vote in the election:
    - (i) a statement of the number of vacancies to be filled at the election together with a list of candidates and their eligibility to stand for election as City Councillor, Corporate Councillor, Country Councillor, Government Councillor, Large Firm Councillor or Suburban Councillor;
    - (ii) a voting paper (which may be or include an electronic voting paper, if available) containing the names of all duly nominated candidates in alphabetical order;

- (iii) with each printed voting paper provided, 2 envelopes:
  - (aa) an outer envelope marked "voting paper" and addressed to the Secretary; and
  - (ab) *an inner envelope incorporating on its outside a leaf of paper with provision for the voter to write the voter's name and address and sign; and*
- (iv) instructions on how to vote, which may cover how to vote electronically if such method of voting is available for the election.
- (b) Only a Solicitor Member recorded in the Register at the expiration of the time for receiving nominations under clause 12.2.3 is eligible to vote in an election conducted under this clause 12.2.8.
- (c) A Solicitor Member wishing to vote shall comply with the how to vote instructions provided under clause 12.2.8(a)(iv).
- (d) All formal voting papers received by the Society or electronic votes received in accordance with the how to vote instructions, not later than 2 pm on the Monday preceding the fourth Thursday in October, shall be counted in the ballot.
- (e) After the ballot is closed the Secretary and the Scrutineers shall:
  - (i) take reasonable steps to satisfy themselves regarding the integrity of the ballot;
  - (ii) eliminate any invalid or informal votes; and
  - (iii) count the ballot.
- (f) A voting paper or electronic vote shall be declared informal if it is not made in accordance with the how to vote instructions provided under clause 12.2.8(a)(iv).
- (g) If there is a doubt regarding the operation of clause 12.2.8(f) in relation to any voting paper or electronic vote cast the matter shall be referred to the President for determination and the determination shall be final.
- (h) At the annual general meeting the Secretary shall declare the following candidates elected:
  - (i) the highest polling City Member to fill any vacancy created by the City Councillor.
  - (ii) the highest polling Country Member to fill any vacancy created by the Country Councillor.
  - (iii) the highest polling Suburban Member to fill any vacancy created by the Suburban Councillor.
  - (iv) the highest polling Large Firm Member to fill any vacancy created by the Large Firm Councillor.
  - (v) the highest polling Corporate Member to fill any vacancy created by the Corporate Councillor.
  - (vi) the highest polling Government Member to fill any vacancy created by the Government Councillor.
  - (vii) the next highest polling candidates up to the number required to fill all remaining vacancies, which are for a Councillor Term.

- (viii) the next highest polling candidates up to the number required to fill all remaining vacancies, which are for less than three years.
- (i) In the interpretation of this Constitution a candidate declared elected under clause 12.2.8(h)(i) to 12.2.8(h)(vi) is deemed to be:
  - (i) a City Councillor if appointed to fill the vacancy of a City Councillor; or
  - (ii) a Suburban Councillor if appointed to fill the vacancy of a Suburban Councillor; or
  - (iii) a Country Councillor if appointed to fill the vacancy of a Country Councillor; or
  - (iv) a Corporate Councillor if appointed to fill the vacancy of a Corporate Councillor; or
  - (v) a Government Councillor if appointed to fill the vacancy of a Government Councillor; or
  - (vi) a Large Firm Councillor if appointed to fill the vacancy of a Large Firm Councillor.
- (j) If any 2 or more number of candidates have the same number of votes the Secretary shall determine the candidate deemed to have the highest number of votes by lot in the presence of the candidates or their nominees.
- (k) The voting papers and electronic voting data shall be retained for 2 months after the result of the election is declared and then be destroyed, unless the Council resolves otherwise.

12.2.9 Non-receipt of a voting paper by any Member shall not invalidate the ballot.

### 12.3 Term of Office of Councillors

12.3.1 Subject to clauses 12.1.2, 12.6 and 12.9, the elected term of office of Councillors shall be Councillor Terms and Young Lawyer Councillor Terms (as relevant).

12.3.2 If the elected term of office of a Councillor expires during his or her term as a Senior Office Bearer, the Senior Office Bearer shall remain a member of the Council ex-officio until his or her term as a Senior Office Bearer has expired.

### 12.4 Removal of Councillors

12.4.1 Subject to the provisions of this Constitution and the Corporations Act, a Councillor may be removed from office by the ordinary resolution of a general meeting of the Society.

12.4.2 If a Councillor is removed from office by the ordinary resolution of a general meeting of the Society the general meeting may appoint another Solicitor Member to fill the vacancy created for the remaining term of the Councillor who was removed from office.

### 12.5 Termination of office of Councillors

12.5.1 The office of a Councillor becomes vacant if:

- (a) the Councillor resigns that office by notice in writing to the Society;
- (b) the Councillor is removed from or ceases to hold office by operation of the Corporations Act;
- (c) the Councillor ceases to be a Solicitor Member;
- (d)

- (i) the Councillor becomes of unsound mind or a person whose estate or person is liable to be dealt with under the law relating to mental health; and
- (ii) such circumstances exist for a period of six consecutive months or six months during a Membership Financial Year;
- (e) the Councillor is absent from three consecutive meetings of the Council specified on the annual schedule of Council meetings without leave of absence;
- (f) the Councillor is directly or indirectly interested in any contract or proposed contract with the Society and fails to declare the nature of that interest in the manner required by the Corporations Act (or at the first meeting of the Council after the relevant facts have come to the Councillor's knowledge) and the Council determines that the Councillor should no longer be a Councillor;
- (g) the Councillor becomes an employee other than as a director of:
  - (i) the Society;
  - (ii) any Related Body Corporate of the Society; or
  - (iii) any organisation, incorporated or unincorporated, more than one-half of the controlling body of which can be elected, appointed or nominated by the Society;
- (h) the Councillor is removed from office pursuant to clause 12.4.1; or
- (i) the Councillor dies.

## 12.6 Casual vacancies

12.6.1 If the office of an elected Councillor becomes vacant during the Councillor's term of office:

- (a) the Council may appoint a Solicitor Member to fill the vacancy;
- (b) a Councillor appointed to fill a vacancy shall serve from the date of appointment until the date of the declaration of the result of the next election of Councillors; and
- (c) at that election the next highest polling candidate after the Councillors elected for Councillor Terms shall be elected in accordance with clause 12.2.8(h) for the remaining term of the Councillor who ceased to hold office.

12.6.2 If an elected Councillor ceases to hold office during the third year of his or her term of office:

- (a) the Council may appoint a Solicitor Member to fill the vacancy; and
- (b) a Councillor appointed to fill any vacancy shall serve from the date of appointment until the date of the next declaration of the result of the election of Councillors.

12.6.3 The Council must fill a casual vacancy:

- (a) of a City Councillor with a City Member;
- (b) of a Suburban Councillor with a Suburban Member;
- (c) of a Country Councillor with a Country Member;
- (d) of a Corporate Councillor with a Corporate Member;
- (e) of a Government Councillor with a Government Member; and



(f) of a Large Firm Councillor with a Large Firm Member.

## 12.7 Leave of absence and alternate Councillors

- 12.7.1 The Council may grant a Councillor leave of absence in respect of one or more meetings of the Council, including in respect of circumstances set out in clause 12.5.1(d)(i).
- 12.7.2 The Council may appoint any Solicitor Member as an alternate Councillor for a Councillor to whom leave of absence has been granted for all or part of the period of the leave of absence.
- 12.7.3 If a leave of absence has been granted to a Councillor holding a Reserved Position, for the purpose of clause 12.7.1, the appointed alternative Councillor shall be from the same Reserved Position category as the Councillor in whose place he or she seeks to stand.
- 12.7.4 An alternate Councillor shall have all the rights and duties of a Councillor for the duration of his or her appointment.
- 12.7.5 The Council may revoke the appointment of an alternate Councillor at any time by ordinary resolution without notice.

## 12.8 Election of Councillors by General Meeting

- 12.8.1 If the vacant positions of retiring Councillors are not filled at the annual election, or if the offices of 6 Councillors or more are vacant at any one time other than at the time of annual retirements leading to the annual elections, those vacancies must be filled at a general meeting.
- 12.8.2 At least 42 days' notice shall be given to Solicitor Members and Incorporated Legal Practice Members and that notice must invite nominations from Solicitor Members. The provisions in clause 12.2.4 apply to nominations, which must be received by the Society or left at the Registered Office no later than 4 pm on a business day not less than 28 days before the general meeting.
- 12.8.3 The Society must issue a notice to Solicitor Members and Incorporated Legal Practice Members advising nominations within 7 days after the deadline for their receipt.
- 12.8.4 The election of Councillors at the general meeting will be conducted in accordance with the procedure for general meetings.

## 12.9 Councillor Tenure

- 12.9.1 A Councillor may not be elected to any position on Council if they have served, or their election would result in them serving, as a Councillor for more than 3 consecutive Councillor Terms or 3 consecutive Young Lawyer Councillor Terms (as relevant) (**Maximum Tenure**) unless a period of at least 3 years has (or will have) passed since the person ceased to be a Councillor after having served as a Councillor for the Maximum Tenure.
- 12.9.2 For the avoidance of doubt, where a Councillor has been previously appointed as a Young Lawyer Councillor, that Councillor's Young Lawyer Councillor Terms will not be counted when determining the number of Councillor Terms for which that Councillor has been elected for the purpose of clause 12.9.1.



## 13 Office Bearers and Officers

### 13.1 Office Bearers

The Office Bearers of the Society are, in the order of seniority:

- (a) President;
- (b) Senior Vice-President;
- (c) Junior Vice-President; and
- (d) Immediate Past President.

### 13.2 Timing of the election of Office Bearers

The Council shall determine the date of the Council meeting at which the election of Office Bearers shall be held which shall be after the annual general meeting and before the first Council meeting in December of that year.

### 13.3 Election of Office Bearers

The Senior Vice-President, and Junior Vice-President of the Society shall be elected by the Council from Councillors on the date determined under clause 13.2.

### 13.4 Term of office

- 13.4.1 The Senior Vice-President, and Junior Vice-President shall hold office for the calendar year following their election.
- 13.4.2 At the end of the calendar year following the election of the Senior Vice-President, the Senior Vice-President shall, subject to clause 13.4.4, become the President and shall hold office as President for 1 calendar year. The President shall be paid an annual allowance equivalent to the annual salary (as fixed at the time the President assumes office) paid to a Judge of the District Court of New South Wales.
- 13.4.3 At the end of the term of office of the President, the President shall become the Immediate Past President and shall hold office as Immediate Past President for 1 calendar year. Where a President's term is extended under clause 13.4.4, the current Immediate Past President may in his or her discretion continue as Immediate Past President or vacate office under clause 12.5.1(a).
- 13.4.4 The Council may resolve by 75% majority of the Councillors eligible to vote pursuant to this clause 13.4.4 to extend the term of the President beyond 1 calendar year for up to 2 additional terms of 1 calendar year on the following terms:
  - (a) a Qualifying Event:
    - (i) has occurred or is likely to occur during the incumbent President's term as President; or
    - (ii) is likely to occur during the calendar year immediately following the incumbent President's term as President.
  - (b) The Council can only approve the extension of the President's term by 1 calendar year at a time.
  - (c) The current Office Bearers (excluding the Immediate Past President) may not vote on the proposal.

- (d) If the Council extends a President's term for 1 or 2 additional calendar years, the Senior Vice-President may in his or her discretion choose to either:
  - (i) remain Senior Vice-President until the President's role expires and fill the President's role at that time in accordance with clause 13.4.2;
  - (ii) vacate the office of Senior Vice-President at the end of the relevant calendar year, subject to continuing as Councillor for the remainder of his or her Councillor Term, provided nothing in this clause affects the Senior Vice-President's rights under clause 12.5.1(a).
- (e) The Senior Vice-President must notify the Council of his or her decision under clause 13.4.4(d) not less than five (5) days before the Council votes on a proposal under this clause 13.4.4, to enable the Council to make any necessary election under clause 13.3.
- (f) For the avoidance of doubt, if the Senior Vice-President vacates the office of Senior Vice-President under clause 13.4.4(d)(ii), clause 13.3 will apply as usual

13.4.5 For the avoidance of doubt, where a Senior Office Bearer's term as a Senior Office Bearer is extended in accordance with clause 13.4.4 and its term of the office as a Councillor will expire during the extended Senior Office Bearer term, the Senior Office Bearer shall remain a member of the Council ex-officio until his or her term (including any extension to that term) as a Senior Office Bearer has expired.

### 13.5 Cessation of office

The term of office of an Office Bearer shall end on:

- (a) subject to clause 13.4.4, the end of the next calendar year after the appointment;
- (b) notice of retirement from the office being given to the Society;
- (c) the Office Bearer ceasing to be a Councillor for any reason; or
- (d) removal from the office by a resolution of the Council.

### 13.6 Casual vacancy

A casual vacancy in the office of President, Senior Vice-President or Junior Vice-President may be filled by any Member appointed by the Council. A person filling a casual vacancy holds office for the remainder of the term of the Office Bearer who last held the position.

### 13.7 Duties of Office Bearers

- 13.7.1 The President shall supervise the affairs of the Society and is an ex-officio member of all committees established by the Council and the Council may, from time to time, specify in more detail the nature and scope of the role of the President.
- 13.7.2 The most senior available of the Senior Vice-President or Junior Vice-President shall discharge the duties of the President where the President is unable to do so.

### 13.8 Secretary

- 13.8.1 The Council shall appoint one or more Secretaries for such term and at such remuneration and upon such conditions as it may think fit.
- 13.8.2 A Secretary may be removed by the Council.

### 13.9 Chief Executive Officer

The Chief Executive Officer shall, subject to any resolution to the contrary, have the right to attend and address (but not to vote at) all meetings of the Society, its Council and all committees.

## 14 Powers and Duties of the Council

**Note:** *the Council of the Society has statutory powers under legislation and those powers are exercised separately from its power to manage the Society. Under legislation, it may have power to delegate to committees and the officers or staff of the Society and when acting pursuant to such a delegation the committee, officer or staff member is exercising the relevant statutory function but apart from that remains under the management of the Society.*

### 14.1 Manage general business of the Society

14.1.1 The business of the Society shall be managed by the Council.

14.1.2 The Council may exercise all powers of the Society and on behalf of the Society do all the acts that may be done and exercise all the powers that may be exercised by the Society and are not required to be exercised by the Society in general meeting by the Corporations Act or by this Constitution.

14.1.3 Subject to this Constitution the Council may:

- (a) engage the services of any person as an employee or contractor on such terms as the Council thinks fit; and
- (b) reimburse a Councillor for reasonable expenditure incurred by way of travelling expenses and for other expenses incurred in the service of the Society.

### 14.2 Power to delegate

14.2.1 If the Council delegates any of its powers (other than that of delegation) to a committee appointed by Council then at least 75% (calculated to the nearest whole number) of the members of a committee must be Solicitor Members.

14.2.2 The Council may delegate, upon such terms and conditions (including the power to further delegate) and with such restrictions as the Council thinks fit, any of its powers in relation to the management of the Society to the Chief Executive Officer of the Society, an employee of the Society or any other person.

14.2.3 The Council may revoke any delegation of its powers by ordinary resolution.

14.2.4 Any committee or person exercising the delegated power of the Council shall comply with any conditions or limitations imposed by the Council.

14.2.5 The meetings and proceedings of a committee exercising the delegated power of the Council are to be governed by the provisions of this Constitution for regulating the meetings and proceedings of the Council in so far as they are applicable and not inconsistent with the terms of reference, charter or other governing document of that committee.

### 14.3 Representations by the Society

14.3.1 The President or the Council may authorise any committee or individual to represent the Society before any government or governmental body or committee or to make statements or express views on behalf of the

Society. The authority may be given generally or for a specific situation and may be given on such conditions as the President or the Council thinks fit.

- 14.3.2 Unless duly authorised to do so under this clause, no Member may make any statement or express any view which purports to be a statement or view of the Society or as having been made or expressed on behalf of or with the concurrence of the Society.

## 15 Meetings of the Council

### 15.1 Meetings

- 15.1.1 The Council may meet for the transaction of business and adjourn and otherwise regulate its meetings as it thinks fit.
- 15.1.2 For the purposes of the Corporations Act, a Council meeting may be called or held using any technology consented to by the Council. The consent may be a standing one. A Councillor may only withdraw their consent within a reasonable period before the meeting. Council meetings may be attended in person or may be conducted by telephone or electronically (using audio or audio-visual technology), or a combination of any of these, subject to the agreement of the President.
- 15.1.3 Where the Councillors are not all in attendance at one place and are holding a meeting using technology:
- (a) the Councillors are to be regarded as present together when each of the Councillors participating in the communication is able to read the written contributions or hear each of the other participating Councillors; and
  - (b) all proceedings of the Councillors conducted in that manner are as valid and effective as if conducted at a meeting at which all of the participating Councillors were physically present in the one location.
- 15.1.4 A meeting of the Council must be convened on the requisition of the President, a Vice-President or any 2 Councillors

### 15.2 Notice of Council Meeting

- 15.2.1 At least 24 hours' notice of a meeting of the Council must be given to each Councillor specifying the place (if applicable), time and date of the meeting, any form of technology being used to conduct the meeting and information on how to participate in the meeting using that technology, and the general nature of items to be discussed.
- 15.2.2 Shorter notice may be given if at least 75% of the Councillors agree or if the President considers that the business of the meeting is urgent.

### 15.3 Quorum

- 15.3.1 The quorum necessary for the transaction of the business of the Council is 3.
- 15.3.2 The Council may act notwithstanding any vacancy on the Council.

### 15.4 Chair

- 15.4.1 The President or in the absence of the President, the Senior Vice-President or, in the absence of the Senior Vice-President, the Junior Vice-President, shall take the Chair at all meetings of the Council.

15.4.2 If neither the President nor Senior Vice-President nor Junior Vice-President is present at any meeting of Council within 15 minutes after the time appointed for holding the meeting, or if no one of them present is willing to act as Chair, the Councillors present shall elect a Councillor to be Chair of the meeting.

## 15.5 Voting

15.5.1 Questions arising at a meeting of the Council shall be decided by a majority of votes of Councillors present and voting. A decision by a majority of the Councillors present and voting is for all purposes a decision of the Council.

15.5.2 The Chair of the meeting has a casting vote in addition to a deliberative vote where there is an equality of votes.

## 15.6 Written resolution

15.6.1 The Council may pass a resolution without a meeting being held if all Councillors who are entitled to vote on the resolution (other than any Councillor on leave of absence) assent to a document containing a statement that they are in favour of the resolution set out in the document.

15.6.2 A Councillor may signify assent to a document under this clause 15.6 by signing the document or by notifying the Secretary of the assent of the Councillor by any technology including electronic mail. The resolution is passed when the last Councillor has assented to the document.

15.6.3 The written resolution may consist of:

(a) several copies of a document; or

(b) the printed record of several electronic mail messages each indicating the identity of the sender, the text of the resolution and the sender's assent to the resolution;

provided that the wording of the resolution and statement is identical in each copy.

## 15.7 Defects in appointment or qualification of a Councillor

15.7.1 All acts done in good faith by a meeting of the Council or of a committee of the Council or by any person acting as a Councillor, committee member or Office Bearer of the Society will be valid and effective notwithstanding that it is afterwards discovered that there was some defect in the appointment of that person or that the person was disqualified from acting for any reason.

## 15.8 Councillor's interests

15.8.1 A Councillor who is in any way interested in a contract or proposed contract with the Society or a Related Body Corporate of the Society must declare the nature of the Councillor's interest immediately in writing to the President.

15.8.2 The Secretary must record every declaration of interest in the minutes of the Council meeting at or after which it is made.

15.8.3 If a Councillor is interested in a contract or proposed contract with the Society or its Related Bodies Corporate and declares the nature of the interest as required by this Constitution:

- (a) the Councillor is not disqualified by holding office as a Councillor from contracting or entering into any arrangement with the Society or its Related Bodies Corporate, whether as vendor, purchaser or otherwise;
  - (b) a contract or arrangement entered into by or on behalf of the Society or its Related Bodies Corporate in which the Councillor is in any way, whether directly or indirectly, interested, is not liable to be avoided; and
  - (c) the Councillor is not liable to account to the Society or its Related Bodies Corporate for a profit realised from that contract or arrangement by reason of the Councillor holding that office.
- 15.8.4 A firm in which the Councillor has an interest may act in a professional capacity for the Society or its Related Bodies Corporate. The firm of the Councillor shall be entitled to remuneration for professional services provided to the Society as if the Councillor was not a Councillor.
- 15.8.5 Nothing in this clause authorises a Councillor or a firm in which the Councillor is interested to act as auditor of the Society.

## 15.9 Participation by interested Councillor

- 15.9.1 A Councillor may not vote on or be present during the consideration by the Council of any matter in which the Councillor has, directly or indirectly, a material personal interest. If a Councillor votes in contravention of this clause that Councillor's vote is not counted.
- 15.9.2 A Councillor who is not entitled to vote or to be present during the consideration of a matter, may not be counted in any quorum required for a meeting of the Council.
- 15.9.3 The prohibitions in clauses 15.9.1 and 15.9.2 do not apply if:
- (a) the Council has at any time resolved that it is satisfied that the Councillor's interest in the matter (as specified by resolution of the Council) should not disqualify the Councillor from considering or voting on the matter;
  - (b) the interest which the Councillor has in the matter does not need to be disclosed under section 191(2) of the Corporations Act; or
  - (c) ASIC makes a declaration which entitles the Councillor to be present and vote on the matter in which the Councillor has a material personal interest.
- 15.9.4 A Councillor may attest the affixing of the Seal to a contract or arrangement entered into by the Councillor or in which the Councillor is, directly or indirectly, interested.

## 16 Regional Law Societies

### 16.1 Recognition

The Council may by resolution recognise as a Regional Law Society any local association of Members established in any part of New South Wales.

### 16.2 Classification

Regional Law Societies shall be classified as:

- (a) Country Law Societies if they operate within an area which is substantially outside a radius of 32 kilometres from the Supreme Court in Sydney;
- (b) Suburban Law Societies if they operate within an area which is substantially within a radius of 32 kilometres but wholly outside a radius of 2 kilometres from the Supreme Court in Sydney; or
- (c) City Law Societies if they operate within a radius of 2 kilometres from the Supreme Court in Sydney.

### 16.3 Current Regional Law Societies

16.3.1 The following Country Law Societies are recognised:

Albury & District Law Society  
 Blue Mountains Law Society  
 Central Coast Law Society  
 Central West Law Society  
 Clarence River and Coffs Harbour Law Society  
 Far North Coast Law Society  
 Far South Coast & Monaro Law Society  
 Far West Law Society  
 Hunter Valley Law Society  
 Macarthur Law Society  
 Mid-North Coast Law Society  
 Nepean Hawkesbury Law Society  
 Newcastle Law Society  
 North & North-West Law Society  
 Orana Law Society  
 Riverina Law Society  
 Shoalhaven and Districts Law Society  
 Southern Tablelands Law Society  
 South West Slopes Law Society  
 Wollongong & District Law Society

16.3.2 The following Suburban Law Societies are recognised:

Bankstown & District Law Society  
 Eastern Suburbs Law Society  
 Inner West Law Society  
 Liverpool – Fairfield District Law Society  
 Northern Beaches Solicitors Association  
 North Metropolitan Law Society  
 The Parramatta & District Law Society Inc  
 St. George-Sutherland Law Society Incorporated

16.3.3 The following City Law Society is recognised:

City of Sydney Law Society Inc.

## 16.4 Requirement to have an office and notify Society

Each Regional Law Society shall:

- (a) have an office to which communications may be addressed which could be the office of the president or secretary of the Regional Law Society;
- (b) notify the Society of its office and any change of address; and
- (c) provide to the Society particulars of its current president and secretary.

## 16.5 Withdrawal of recognition

16.5.1 If the Council forms the opinion that a Regional Law Society has:

- (a) ceased to function; or
- (b) engaged in conduct detrimental to the interests of the Society generally,

the Council may withdraw recognition of the Regional Law Society by the following procedure:

- (i) the Council must resolve to withdraw recognition of the Regional Law Society;
- (ii) the Council must give at least 3 months' notice in writing of the Council's intention accompanied by short particulars in writing to the Regional Law Society of the grounds upon which the Council proposes to act;
- (iii) not later than 1 month before the expiration of the notice given by the Council, the Regional Law Society may submit any information to the Council regarding any matter stated in the grounds accompanying the notice for the consideration of the Council on or in connection with the motion for the withdrawal of its recognition;
- (iv) the Council must consider any submission which it receives from the Regional Law Society; and
- (v) the Council may either take no action or rescind the motion to withdraw recognition of the Regional Law Society.

## 16.6 Regional Conventions

16.6.1 At least two conventions of representatives of Regional Law Societies shall be held each year in New South Wales on dates established by resolution of the convention or in default of such resolution on dates to be determined by the Council.

16.6.2 Every resolution passed at a convention which refers any issue or item of business to the Council for its consideration shall be communicated to the Secretary who shall place the same before the Council within 2 months of the date of the convention at which such resolution was passed.

## 16.7 Power to make regulations

The Council may make regulations regarding:

- (a) the form of the constitution and the conditions of membership of Regional Law Societies;



- (b) the nature and functions of Regional Law Societies;
- (c) the information to be furnished from time to time by Regional Law Societies to the Council;
- (d) the regional conventions and other meetings of representatives of Regional Law Societies;
- (e) voting procedures at the regional conventions and other meetings of representatives of Regional Law Societies;
- (f) the definition or re-definition of the boundaries of Regional Law Societies; and
- (g) any other incidental matters.

## 17 Minutes of Meetings

### 17.1 Secretary to attend meetings

Unless directed otherwise by the Council, the Secretary must attend all meetings of the Council and all general meetings of the Society and must keep a record of the proceedings of those meetings.

### 17.2 Preparation, circulation and approval of minutes

- 17.2.1 Draft minutes of all meetings are to be promptly circulated to all Councillors for information and approval.
- 17.2.2 Subject to any objection, the Chair of the meeting or the next such meeting must sign the minutes to certify that they are a true and correct record of the proceedings of the meeting.

## 18 The Seal

### 18.1 Custody of Seal

The Secretary must provide for the safe custody of the Seal.

### 18.2 Affixing the Seal

- 18.2.1 The Seal may be used only by the authority of the Council or a duly authorised committee of the Council.
- 18.2.2 Every document to which the Seal is affixed must be signed by a Councillor and be countersigned by another Councillor, a Secretary or another person appointed by the Council to countersign that document or a class of documents in which that document is included.

## 19 Audit

Auditors of the Society must be appointed and removed and their duties regulated in accordance with the Corporations Act.

## 20 Notices

### 20.1 Means of giving notices

- 20.1.1 A notice pursuant to this Constitution must be given in writing and may be given to the addressee (to the appropriate address or addresses, or number) by:

- (a) sending personally;
- (b) mail (postal service);
- (c) document exchange;
- (d) electronic mail; or
- (e) the means under clause 20.1.2.

20.1.2 In the case of a notice of general meeting to be given to a Member or a notice given under clause 12.2.3 regarding the election of Councillors, a notice (and any other information to be provided with the notice or in relation to the meeting or the election) may be given to the addressee:

- (a) to any address or number or electronic point of contact provided by the Member to the Society;
- (b) electronically using forms of technology (including but not limited to electronic mail) to communicate the contents of the notice and the other information or details of an online location where the notice and other information is available for viewing or download; and
- (c) by publication in, or accompanying, the Law Society Journal or Monday Briefs (or any similar or replacement publications), whether in print or electronic form, that is sent by the Society to Members, where the Society notifies the addressee that the notice is available for viewing or download.

20.1.3 A Councillor, Secretary or other person authorised by the Council may give notices on behalf of the Society. The signature on a notice given by the Society may be written, photocopied, printed, stamped or electronic.

20.1.4 Notices given to the Society must be marked for the attention of the Secretary.

## 20.2 Address for service

20.2.1 The address for service is:

- (a) in the case of a Member or Councillor, the home address (or any postal address, document exchange address, or electronic mail address in the case of postal, document exchange, or electronic mail dispatch) of the Member or Councillor specified in the Register; and
- (b) in the case of the Society, the address (or any postal address, document exchange address, or electronic mail address in the case of postal, document exchange or electronic dispatch) of the Registered Office for the time being specified on the official stationery of the Society.

## 20.3 Notification of change of address

20.3.1 If the home address, postal address, document exchange address, or electronic mail address of a Member changes, the Member must promptly give notice of the change to the Society.

20.3.2 The Society must promptly notify Members of any change in its address.

## 20.4 Time notices are effective

20.4.1 Except if a later time is specified in a clause dealing with a notice or other communication, a notice (other than a notice convening a meeting) is to be regarded as given, served, received and as having come to the attention of the addressee:

- (a) if delivered to the home address of the addressee, at the time of delivery;

- (b) if it is sent by post to the home address or postal address or if it is sent by way of the document exchange to the document exchange address of the addressee, on the third (or fifth if outside Australia) business day after sending; or
- (c) if sent by electronic mail to the electronic mail address of the addressee, at the time transmission is completed.

## 20.5 Proof of giving notices

- 20.5.1 Proof of the sending of a notice by electronic mail and the time of completion of transmission may be established by production of a transmission report by the machine from which the electronic transmission was sent which indicates that the electronic mail was sent in its entirety to the electronic mail address of the addressee.
- 20.5.2 A certificate signed by a Councillor or Secretary that a notice was delivered or posted at a particular time is conclusive evidence that the notice was delivered or posted at that time.
- 20.5.3 A certificate signed by a Councillor or Secretary that a notice was sent by electronic mail at a particular time and that no "undeliverable mail" message has been received in relation to it is conclusive evidence that the notice was sent and received at that time.

## 20.6 Notice of meetings

- 20.6.1 Subject to the Corporations Act, a notice of a general meeting or a meeting of the Council is taken to be given on the day of dispatch.
- 20.6.2 The accidental failure to give a notice of meeting to a Member, Councillor or a committee member or the non-receipt of such a notice will not invalidate the proceedings of the meeting.

## 21 Winding Up

- (a) Each Member undertakes to contribute to the assets of the Society in the event of it being wound up while they are a Member, or within one year after they cease to be a Member, for payment of the debts and liabilities of the Society and of the costs, charges and expenses of winding up, such amount as may be required not exceeding \$2.00.
- (b) On the winding up or dissolution of the Society, any property whatsoever (including any gifts of money or property for the objects of the Society, and any money received by the Society because of such gifts and contributions) that remains, after satisfaction of all debts and liabilities, must not be paid to or distributed among the Members but must be given or transferred to some other institution or institutions having objects similar to the objects of the Society, to be determined by the Members at or before the time of dissolution, and in default thereof, by the Supreme Court of New South Wales.

## 22 Officers' Liability Insurance

To the extent permitted by the Corporations Act, the Society may pay or agree to pay, a premium in respect of a contract insuring an Officer against a liability:

- (a) incurred by the Officer in or arising out of the conduct of the business of the Society or in or arising out of the discharge of the duties of the Officer, provided that the liability does not arise out of conduct involving:
  - (i) a wilful breach of duty in relation to the Society; or
  - (ii) a contravention of sections 182 and 183 of the Corporations Act; and
- (b) for costs and expenses incurred by the Officer in defending (including exercising any right of appeal) proceedings (whether criminal, civil, administrative or judicial) or appearing before any court, tribunal, government authority or other body or in respect of any investigation or inquiry conducted formally or informally, pursuant to any legislation.

## 23 Indemnity of Officers

- 23.1** Every Officer of the Society is entitled to be indemnified out of the property of the Society to the relevant extent against any liability incurred by the Officer in or arising out of the conduct of the business of the Society or in or arising out of the discharge of the duties of the Officer.
- 23.2** Where the Council considers it appropriate, the Society may execute a documentary indemnity in any form in favour of any Officer of the Society, provided that such terms are not inconsistent with this clause 23.
- 23.3** In this clause 23:
- (a) **liability** means all costs, charges, losses, damages, expenses, penalties and liabilities of any kind, including in particular, legal costs incurred in defending (including exercising any right of appeal) any proceedings (whether criminal, civil, administrative or judicial) or appearing before any court, tribunal, government authority or other body or in respect of any investigation or inquiry conducted formally or informally, pursuant to any legislation; and
  - (b) to the relevant extent means:
    - (i) to the extent the Society is not precluded by law from doing so;
    - (ii) to the extent and for the amount that the Officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including, but without limitation, a subsidiary or an insurer under any insurance policy); and
    - (iii) where the liability is incurred in or arising out of the conduct of the business of another corporation or in the discharge of the duties of the Officer in relation to another corporation to the extent and for the amount that the Officer is not entitled to be indemnified and is not actually indemnified out of the assets of that corporation.